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3 UNITED STATES DISTRICT COURT
4 DISTRICT OF NEVADA
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7 UNITED STATES OF AMERICA,

Case No. 2:18-cr-00112-JCM-VCF

8 Plaintiff,

ORDER

9 v.

10 WILLIAM WALLER,

11 Defendant.

12 Presently before the court is defendant William Waller's ("defendant") motion for bond.¹
13 (ECF No. 112). The United States of America ("the government") filed a response (ECF No.
14 114), to which defendant replied (ECF No. 116).

15 **I. Facts**

16 On March 18, 2019, following a jury trial, defendant was found guilty of one count of
17 Attempt to Evade or Defeat Tax in violation of 26 U.S.C. § 7201, and two counts of Willful
18 Failure to File a Return in violation of 26 U.S.C. § 7203. (ECF No. 104). At the conclusion of
19 trial, the court remanded defendant to custody pending sentencing, which is currently set for June
20 21, 2019. (ECF No. 102).

21 On April 1, 2019, defendant filed the instant motion for release pending sentencing.
22 (ECF No. 112).

23 **II. Legal Standard**

24 Under 18 U.S.C. § 3143(a), a criminal defendant who has been found guilty and is
25 awaiting sentencing for a crime for which a term of imprisonment is recommended by the
26 sentencing guidelines must be detained pending sentencing unless:

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28 ¹ Based on the substance of the motion, the court construes defendant's motion as a motion for
release pending sentencing. *See* (ECF No. 112).

1 (A)

(i) the judicial officer finds there is a substantial likelihood that a motion for acquittal or new trial will be granted; or

2 (ii) an attorney for the Government has recommended that no sentence of imprisonment be imposed on the person; and

3 (B) the judicial officer finds by clear and convincing evidence that the person is
4 not likely to flee or pose a danger to any other person or the community.

5 18 U.S.C. § 3143(a).

6 The factors the court considers when making the determination of whether a person is
7 “likely to flee or pose a danger to the safety” of the community are:

8 (1) the nature and circumstances of the offense charged, including whether the
9 offense is a crime of violence, a violation of section 1591, a Federal crime of terrorism, or involves a minor victim or a controlled substance, firearm, explosive, or destructive device; (2) the weight of the evidence against the person; (3) the
10 history of the person, including [] the person’s character, physical and mental condition, family ties, employment, financial resources, length of residency in the
11 community, community ties, past conduct, history relating to drug or alcohol abuse, criminal history, and record concerning appearance at court proceedings . . . ; and
12 (4) the nature and seriousness of the danger to any person or the community that would be posed by the person’s release.
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14 18 U.S.C. § 3142(g).

15 **III. Discussion**

16 The parties’ main focus in briefing the instant motion, and indeed the court’s primary
17 concern, is the extent to which defendant poses a risk of flight prior to sentencing. *See* (ECF
18 Nos. 112, 114). Defendant lists a number of factors that purportedly demonstrate by clear and
19 convincing evidence that he does not pose a flight risk prior to sentencing.

20 First, defendant notes his 34-year residency in Las Vegas, his relationship with his step-
21 sons and grandchildren, and his 25-year career in the Las Vegas real estate business as evidence
22 of his ties to the community. (ECF No. 112).

23 Next, defendant submits that he is willing to be subject to home confinement with GPS
24 monitoring, post as bond a home owned by his wife, surrender his passport, and abide by any
25 terms of supervision recommended by the probation office in exchange for pre-sentence release.

26 *Id.* These conditions, defendant asserts, will ensure that he does not abscond prior to sentencing.

27 *Id.*

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1 Finally, defendant argues that his appearance at all prior court dates in this matter militate
2 in favor of a finding that he does not pose a flight risk, post-conviction. *Id.* The court will
3 address each of defendant's arguments in turn.

4 *a. Defendant's ties to the community*

5 Defendant argues that he has longstanding ties to the Las Vegas community. (ECF No.
6 112 at 3–4). These ties include his wife, step-sons, twin grandchildren, and real estate business.
7 *Id.* Additionally, defendant submits that he is responsible for transferring his current listings and
8 management portfolio to another real estate broker in light of his conviction but is unable to do
9 so from the detention center, where he is currently housed. *Id.*

10 First, the court will not consider defendant's obligation to transfer his listings and
11 management portfolio as evidence in this matter. The court finds that this is irrelevant to
12 defendant's argument as to whether he poses a risk of flight prior to sentencing, which is the
13 court's primary task in resolving the instant motion.

14 As to defendant's personal and family ties to the community, the court finds that
15 defendant has not demonstrated ties sufficient to mitigate any potential risk of flight. Indeed,
16 defendant has no children of his own and his step-children are grown. (ECF No. 110 at 14) (trial
17 transcript).

18 Additionally, defendant's willingness to knowingly break the law for approximately 20
19 years undermines his desire to remain with his family. Indeed, defendant has dedicated a major
20 portion of his life to evading his tax obligations, thereby subjecting himself and his family to all
21 of the risks attendant to violating the law. The court sees little reason why defendant would
22 suddenly place his family's need above his own self-interest, as the period of time preceding
23 sentencing is ostensibly defendant's last chance to successfully avoid his tax obligations (and the
24 prison sentence that awaits him).

25 Finally, defendant has not demonstrated that his career in real estate will prevent him
26 from absconding. Indeed, defendant's occupation is dependent upon business licenses issued by
27 the State of Nevada, which may be subject to revocation because of his criminal conviction. *See*
28 (ECF No. 114 at 8, n.6).

1 consequences of his concerted efforts.

2 Because the court has not found by clear and convincing evidence that defendant is
3 unlikely to flee prior to sentencing, the court need not address whether there is a substantial
4 likelihood that a motion for acquittal or new trial will be granted. *See* 18 U.S.C. § 3143(a).
5 Defendant's motion is denied.


6 **IV. Conclusion**

7 Accordingly,

8 IT IS HEREBY ORDERED, ADJUDGED, and DECREED that defendant's motion for
9 presentence release (ECF No. 112) be, and the same hereby is, DENIED.

10 IT IS SO ORDERED.

11 DATED THIS 17th day of April 2019.

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14 JAMES C. MAHAN
15 UNITED STATES DISTRICT JUDGE
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